

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

HV4764
.U54
1992

**United States
Department of
Agriculture**



National Agricultural Library

FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT OF 1992

APRIL 9, 1992.—Ordered to be printed

Mr. DE LA GARZA, from the Committee on Agriculture,
submitted the following

REPORT

[To accompany H.R. 2407]

The Committee on Agriculture, to whom was referred the bill (H.R. 2407) entitled the "Farm Animal and Research Facilities Protection Act of 1991", having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

Title XIV of the Food Security Act of 1985 is amended by adding the following new subtitle:

"SUBTITLE D—PROTECTION OF FARM ANIMAL AND RESEARCH FACILITIES

"SEC. 1481. SHORT TITLE.

"This subtitle may be cited as the 'Farm Animal and Research Facilities Protection Act of 1992'.

"SEC. 1482. FINDINGS.

"Congress finds that—

"(1) there have been an increasing number of illegal acts committed against farm animal, research, and educational facilities;

"(2) these illegal acts threaten the production of agricultural products and damage the public interest by jeopardizing scientific, biomedical, and agricultural research;

"(3) these illegal acts interfere with the property rights of the owners of the facilities;

"(4) Federal protection of farm animal, research, and educational facilities is necessary to prevent and eliminate burdens on interstate commerce; and

"(5) Federal protection is necessary to protect the welfare of animals and productive use of Federal research funds and to prevent the unlawful alteration, destruction, or obtaining of research records, research materials, equipment, animals, or any combination thereof.

59-006

21 JUL 1992

OCT 8 1992

CATALOGING PREP.

SEC. 1483. DEFINITIONS.

"As used in this subtitle—

"(1) The term 'animal' means animals used for food or fiber production, agriculture, research, education, testing, or exhibition, and includes poultry, fish, and invertebrates.

"(2) The term 'animal facility' means any vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale.

"(3) The term 'animal enterprise' means food or fiber production, agriculture, research, education, testing, or exhibition using animals.

"(4) The term 'Secretary' means the Secretary of Agriculture.

"(5) The term 'State' means a State of the United States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.

"(6) The term 'exhibition' includes, but is not limited to, State and county fairs and other fairs or similar events intended to advance agricultural arts and sciences, livestock shows and competitions, aquariums, zoos, circuses, purebred dog and cat shows, and rodeos, but does not include retail pet stores or animal fighting ventures.

SEC. 1484. PROHIBITED ACTS.

"(a) **IN GENERAL.**—Whoever travels in interstate or foreign commerce or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of committing any act that is specified in subsection (b) and commits or attempts to commit any such act, with the intent to physically disrupt or damage the animal enterprise conducted at the animal facility, shall be punished in accordance with section 1485.

"(b) **SPECIFIED ACTS.**—The acts referred to in subsection (a) are the following:

"(1) to steal or intentionally cause the unauthorized release or loss of any animal from an animal facility;

"(2) to vandalize, steal, or damage any property in or on an animal facility;

"(3) to break and enter any animal facility with the intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

"(4) to enter, obtain access to, or remain on an animal facility under false pretenses with intent to commit an act specified in paragraphs (1) or (2); and

"(5) to knowingly aid, abet, command, induce, or procure the commission of an act described in paragraphs (1), (2), (3), or (4).

"(c) **OTHER PROHIBITED ACTS.**—Whoever, knowing an offense specified in subsection (a) has occurred, attempts to or does receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment shall be punished in accordance with section 1485.

SEC. 1485. PENALTIES.

"(a) **IN GENERAL.**—Whoever violates section 1484 shall be imprisoned for not more than one year or fined under title 18 of the United States Code, or both.

"(b) **OFFENSES INVOLVING SERIOUS BODILY INJURY AND ANIMAL OR PROPERTY DAMAGE.**—Whoever violates section 1484 and in doing so causes or attempts to cause serious bodily injury (as defined in section 1365 of title 18) to an individual or causes or attempts to cause the loss of or damage, in an amount equal to \$5,000 or more, to animals or other property of an animal facility, including the reasonable cost of replacing property, data, records, materials, equipment, or animals that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated and the reasonable costs attributable to the loss of food production, including loss of farm income, resulting from a violation of section 1484, shall be imprisoned for not more than 10 years or fined under title 18 of the United States Code, or both.

"(c) **LIFE ENDANGERING OFFENSES.**—Whoever violates section 1484 and in so doing places or causes to be placed in jeopardy the life of any person, shall be imprisoned for not more than 20 years or fined under title 18 of the United States Code, or both.

"(d) **REASONABLE COSTS.**—

(1) **DETERMINATION.**—The United States District Court or the United States Magistrate, as is appropriate, shall determine: (A) the reasonable cost of replacing property, data, records, materials, equipment, or animals that may have been damaged or cannot be returned; (B) the reasonable cost of repeating any experimentation that may have been interrupted or invalidated; and (C) the reasonable costs attributable to the loss of food production, including loss of farm income, resulting from a violation of section 1484.

"(2) **RESTITUTION.**—Any person convicted of a violation of section 1484 shall be ordered jointly and severally to make restitution to the animal facility in the full amount of the reasonable cost determined under paragraph (1).

"SEC. 1486. REPORTING OF VIOLATIONS BY THE SECRETARY.

"For purposes of enforcing the provisions of this subtitle, the Secretary—

"(1) may report any offense under this subtitle to the Federal Bureau of Investigation; and

"(2) shall provide, to the extent practicable, any assistance requested by a law enforcement agency of the United States or any State or local government in connection with an investigation of an offense under this subtitle.

"SEC. 1487. STUDY OF EFFECT OF ILLEGAL ACTIVITIES ON CERTAIN ANIMAL FACILITIES.

"(a) **STUDY.**—The Secretary, with the assistance of any appropriate Federal agency, shall jointly conduct a study on—

"(1) the extent and effects of illegal activities on animal research, production, and processing facilities and all other facilities in which animals are used for research, food production, or exhibition; and

"(2) the effectiveness of prosecutions and injunctive relief under this subtitle in deterring and punishing acts prohibited under this subtitle.

"(b) **SUBMISSION OF STUDY.**—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 1488. EQUITABLE RELIEF.

"The Attorney General may in a civil action obtain appropriate equitable relief to prevent a violation of this subtitle.

"SEC. 1489. CONSTRUCTION.

"(a) **EFFECT ON OTHER RIGHTS.**—Nothing in this subtitle shall be construed to affect any other rights of a person who has been damaged by reason of a violation of this subtitle.

"(b) **EFFECT ON WHISTLEBLOWER PROTECTION LAWS.**—Nothing in this subtitle shall be construed to affect or limit the exercise of any right granted by State or Federal whistleblower protection laws, including section 1201 *et seq.* of title 5, and section 2409(a) of title 10, United States Code.

"(c) **ADDITIONAL CONSIDERATIONS.**—Notwithstanding any other provision of this subtitle, it shall not be an offense under this subtitle to (1) copy any material or (2) disseminate any information, for the purpose of using such material or information to report any act, omission, or condition that may be a violation of any State or Federal statute or regulation.

SEC. 1490. EFFECT ON OTHER LAWS.

"Nothing in this subtitle shall be construed or interpreted to preempt any Federal or State law or regulation."

"SEC. 2. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents in section 2 of the Food Security Act of 1985 (7 U.S.C. 1281 note) is amended by adding after "Sec. 1471. Effective Date." the following:

"Subtitle D—Protection of Farm Animal and Research Facilities

"Sec. 1481. Short title.

"Sec. 1482. Findings.

"Sec. 1483. Definitions.

"Sec. 1484. Prohibited acts.

"Sec. 1485. Penalties.

"Sec. 1486. Reporting of violations by the Secretary.

"Sec. 1487. Study of effect of illegal activities on certain animal facilities.

"Sec. 1488. Equitable relief.

"Sec. 1489. Construction.

"Sec. 1490. Effect on other laws."

Amend the title so as to read: "Farm Animal and Research Facilities Protection Act of 1992".

H.R. 2407—BRIEF EXPLANATION

The bill creates Federal protections for farm animal and research facilities by providing for penalties of up to 20 years impris-

onment and fines for specified acts in interstate commerce, including the theft of animals or property from animal facilities and damage to such facilities. Copying material or disseminating information to report any act or omission that may be a violation of any State or Federal law is not a prohibited activity under the bill. The bill requires that any person convicted of a violation shall make restitution to the affected animal facility for any loss caused by the prohibited activity. The bill also requires the Secretary of Agriculture to conduct a study on the effects of illegal activities on animal research and production and on the effectiveness of the bill in deterring and punishing the prohibited acts.

PURPOSE AND NEED

H.R. 2407 is intended to foster and promote food production and animal research and education by protecting animals and animal facilities and the persons employed at such facilities from acts of violence and destruction.

The Committee hearing record on this issue demonstrates that current Federal laws are not adequately discouraging acts of violence against biomedical researchers, farmers and ranchers, meat processors, livestock auctions, and others who handle animals. More than 100 violent acts have occurred in the last 10 years against farmers and researchers, acts that available evidence indicates are escalating both in number each year and in their level of violence.

The dedication of farmers, ranchers, and medical researchers is commendable. They typically work long hours to improve the quality of both human and animal life. Not only do these individuals have an economic motive to respect and care for animals, a healthy respect and caring of animals is an essential component of their professions.

Now animal researchers and the producers of our Nation's food supply are under attack by those who sometimes use violence to advance their goals. Since this legislation was first introduced during the 101st Congress there have been at least 14 reported acts of violence committed against farms and research facilities nationwide. While this number is alarming, it should be noted that many violent acts go unreported because the victims fear reprisals. In the reported cases fires gutted offices and laboratories, animals were stolen, research records were stolen, laboratory equipment was destroyed, and individual researchers were harassed by death threats and hate mail. Such actions not only threaten existing food production and research, and impede future advances, they have created a growing atmosphere of fear among those researchers and agricultural producers to whom the Nation owes so much.

The food production industry is a critical segment of the Nation's economy. Agricultural producers are vital to this industry and to the American consumer. America enjoys the most abundant and nutritious food supply in the world. This success is partially the result of farmers' and ranchers' concern for and experience with animals, coupled with dedication and utilization of the best agricultural research in the world.

Yet, those involved in food animal production are the newest targets of acts of violence and destruction, and they are perhaps the most vulnerable. Most farmers and ranchers, livestock auctions and meat processors cannot afford sophisticated or even rudimentary security systems and personnel. Nor should they be forced to spend hard-earned dollars on such protections. Yet, incidents of arson, break-ins, theft, threats and vandalism have been perpetrated against the animal agricultural sector nationwide. The most recent attacks, which included break-ins and arson, have occurred in the Pacific Northwest at research farms, a farm food cooperative and a USDA facility. In February of this year, the offices and laboratories of animal researchers at Michigan State University were broken into, and set on fire, destroying the offices and more than 30 years of research data.

Biomedical researchers have persevered to eliminate disease and expand our life expectancy. Their work is critical to human health. A report by the American Medical Association makes clear that we owe our good health, in large part, to animal research. The report states:

Virtually every advance in medical science in the 20th century, from antibiotics and vaccines to antidepressant drugs and organ transplants, has been achieved either directly or indirectly through the use of animals in laboratory experiments.¹

A recent report of the National Academy of Sciences and the Institute of Medicine highlights the destructive nature of acts of violence against research facilities and the dire consequences for medical breakthroughs. It states:

Records representing years of work have been threatened * * * The scientific community can find no moral justification for these acts * * * Vandalism and harassment have slowed medical research that is dedicated to improving human well-being * * * denying hope to those with presently incurable diseases.²

The National Academy of Sciences report also states:

* * * it would be immoral and selfish not to use animals in research today, given the harm that would accrue to future generations if such research were halted.³

Federal protection of animal facilities is essential. Crimes against agricultural and research facilities are both interstate and international in scope. While 25 states have enacted laws since 1988 increasing the penalties for crimes against research and agricultural facilities, state and local law enforcement agencies are not equipped to conduct interstate or international investigations. In the face of such national and international criminal activity, Federal court jurisdiction is needed. The States alone cannot solve the

¹ "Use of Animals in Biomedical Research: The Challenge and Response", American Medical Association, Chicago, 1989.

² "Science, Medicine, and Animals", prepared for the Councils of the National Academy of Sciences and the Institute of Medicine by the Committee on the Use of Animals in Research, National Academy Press, 1991, p. 18.

³ *Ibid.* at 27.

problem, and therefore the resources of the Federal government are necessary. There has been only one successful Federal prosecution for crimes committed against animal facilities. Existing Federal statutes do not provide adequate protection for these important animal facilities.

In granting this Federal protection, the Committee recognizes that the issue of animals in food production and research is controversial. Accordingly, the bill has been carefully drafted to protect animal facilities while recognizing the individual's right to express his or her own views in a lawful manner.

However, those who choose to disrupt lawful agricultural and scientific research activities through violent means should face legal sanctions that are commensurate with their actions. The true victims of these violent actions are not only agricultural and biomedical research institutions and food animal producers, but all members of society. The ultimate cost is borne by those who enjoy our abundant and nutritious food supply or wait for better treatments, preventative measures, and cures for disease and disability—people whose very lives may be at stake.

SECTION-BY-SECTION ANALYSIS

SECTION 1—AMENDMENTS TO THE FOOD SECURITY ACT OF 1985

Section 1 amends Title XIV of the Food Security Act of 1985 by adding a new subtitle D entitled "Protection of Farm Animal and Research Facilities", which includes new sections 1481 through 1490.

New section 1481 provides that the new subtitle may be cited as the "Farm Animal and Research Facilities Protection Act of 1992".

New Section 1482 provides the findings of Congress.

New Section 1483 defines certain terms for purposes of their use in the new subtitle D. New Section 1483 defines: (1) the term "animal" to mean animals used for food or fiber production, agriculture, research, education, testing, or exhibition, and includes poultry, fish, and invertebrates; (2) the term "animal facility" to mean any vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale; (3) the term "animal enterprise" to mean food or fiber production, agriculture, research, education, testing, or exhibition using animals; (4) the term "State" to mean a State of the United States, the District of Columbia, or any Commonwealth, territory, or possession of the United States; and (5) the term "exhibition" to include, but not to be limited to, State and county fairs and other fairs or similar events intended to advance agricultural arts and sciences, livestock shows and competitions, aquariums, zoos, circuses, purebred dog and cat shows, and rodeos, but not to include retail pet stores, and animal fighting ventures. An event that is not specifically enumerated may nevertheless be considered to be an exhibition depending on how analogous it is to the events enumerated.

New section 1484(a) provides for punishment under new section 1485 for anyone who travels in interstate or foreign commerce or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of committing any of 5 specified

acts and who commits or attempts to commit any such act with the intent to physically disrupt or damage the animal enterprise conducted at the animal facility. Section 1484(b) specifies that the 5 acts prohibited under section 1484(a) are:

(1) to steal or intentionally cause the unauthorized release or loss of any animal from an animal facility;

(2) to vandalize, steal, or damage any property in or on an animal facility;

(3) to break and enter any animal facility with the intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

(4) to enter, obtain access to, or remain on an animal facility under false pretenses with intent to commit an act specified in paragraphs (1) or (2); and

(5) to knowingly aid, abet, command, induce, or procure the commission of an act described in paragraphs (1), (2), (3), or (4).

New Section 1484(c) provides for punishment under new section 1485 for anyone who receives, relieves, comforts, or assists an offender in order to prevent the offender's apprehension, trial, or punishment, with knowledge that an offense specified in paragraphs (1) through (5) has occurred, and either does or attempts to receive, relieve, comfort, or assist such offender. Comforting an offender does not include providing funds or collecting funds on behalf of an offender for a legal defense.

Section 1484 is not intended to authorize cumulative punishment under both its provisions and those in sections 2 and 3 of title 18, United States Code. Rather, an offender may be liable for punishment under either title 18 or section 1484.

New section 1485(a) requires that anyone who violates section 1484 be imprisoned for up to one year or fined in accordance with section 3751 of title 18, United States Code, or both.⁴

New section 1485(b) requires that anyone who violates section 1484 and in doing so causes or attempts to cause serious bodily injury (as defined in section 1365 of title 18) to an individual or causes or attempts to cause the loss or damage of a value of \$5,000 or more to animals or other property of an animal facility, including the reasonable cost of replacing property, data, records, materials equipment, or animals that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated and the reasonable costs attributable to the loss of food production, including loss of farm income, resulting from a violation of section 1484 shall be imprisoned for not more than 10 years or fined in accordance with section 3571 of title 18, United States Code, or both.

New section 1485(c) requires that anyone who violates section 1484 and in so doing places or causes to be placed in jeopardy the life of any person, be imprisoned for not more than 20 years or fined in accordance with section 3571 of title 18, United States Code, or both.

⁴ The inclusion in section 1485 of references to title 18 of the United States Code are not intended to imply that the absence of such references in other statutes should have any effect on the normal applicability of title 18.

New section 1485(d)(1) requires the United States District Court or the United States Magistrate, as is appropriate, to determine the reasonable cost of replacing property, data, records, materials, equipment, or animals that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated, and the reasonable costs attributable to the loss of food production, including loss of farm income, resulting from a violation of section 1485(d)(2) requires that any persons convicted of a violation of section 1484 must be ordered jointly and severally to make restitution to the animal facility in the full amount of the reasonable cost determined by the Court or Magistrate under new section 1485(d)(1).

New section 1486 authorizes the Secretary of Agriculture (Secretary) to report any offense under new subtitle D to the Federal Bureau of Investigation and requires the Secretary to provide, to the extent practicable, any assistance requested by a law enforcement agency of the United States or any State or local government in connection with an investigation of an offense under new subtitle D.

New section 1487(a) requires the Secretary, with the assistance of any appropriate Federal agency, to jointly conduct a study on—(1) the extent and effects of illegal activities prohibited on animal research, production, and processing facilities and all other facilities in which animals are used for research, food production, or exhibition; and (2) the effectiveness of prosecutions and injunctive relief under the bill in deterring and punishing acts prohibited under the bill.

New section 1487(b) requires the Secretary, not later than 1 year after the date of enactment of the bill, to submit a report that describes the results of the study, with any appropriate recommendations or proposed legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

New section 1488 authorizes the Attorney General in a civil action to obtain appropriate equitable relief to prevent a violation of the new subtitle D.

New section 1489(a) provides that nothing in new subtitle D may be construed to affect any other rights of a person who has been damaged by reason of a violation of the new subtitle.

New section 1489(b) provides that nothing in new subtitle D may be construed to affect or limit the exercise of any right granted by State or Federal whistleblower protection laws including but not limited to section 1201 *et seq.*, of title 5, and section 2409(a) of title 10, United States Code.

New section 1489(a) provides that, notwithstanding any other provision of new subtitle D, it will not be an offense under the bill to (1) copy any material or (2) disseminate any information, for the purpose of using such material or information to report any act, omission, or condition that may be a violation of any State or Federal statute or regulation. The term “copy” includes taking photographs.

New section 1490 provides that nothing in new subtitle D may be construed or interpreted to preempt any Federal or State law or regulation.

SECTION 2—AMENDMENTS TO THE TABLE OF CONTENTS

Section 2 of the bill amends the table of contents in section 2 of the Food Security Act of 1985 (7 U.S.C. 1281 note) to reflect the addition of new subtitle D made by section 1 of the bill.

COMMITTEE CONSIDERATION

I. HEARINGS

During the 101st Congress, the Subcommittees on Livestock, Dairy, and Poultry and on Department Operations, Research, and Foreign Agriculture held a joint public hearing on animal research facility protection on February 28, 1990. The Subcommittee on Department Operations, Research, and Foreign Agriculture held a public hearing on H.R. 3270, the predecessor to H.R. 2407, on July 17, 1990. These hearings underscored the need for this legislation and established a strong public record supporting Federal prosecution of violent activities directed at animal facilities.

II. SUBCOMMITTEE CONSIDERATION

The Subcommittees on Livestock, Dairy, and Poultry and on Department Operations, Research, and Foreign Agriculture were discharged from further consideration of H.R. 2407 by unanimous consent of the Committee on Agriculture on November 20, 1991.

III. FULL COMMITTEE CONSIDERATION

A. Opening statements and discussion

On April 2, 1992, the Committee on Agriculture met, pursuant to notice, to consider H.R. 2407, the "Farm Animal and Research Facilities Protection Act". Chairman de la Garza called the meeting to order for the purpose of consideration of the bill. Mr. Stenholm, Chairman of the Subcommittee on Livestock, Dairy, and Poultry, was recognized to explain the legislation.

Mr. Stenholm noted that the Committee had worked with the American Civil Liberties Union in developing his amendment in the nature of a substitute (the "substitute") to ensure that the bill provided adequate protection to persons investigating abuses of animal welfare laws and to persons conducting legitimate media investigations. He further noted that the Committee had worked with the Department of Justice and the Committee on the Judiciary of the House of Representatives to address concerns about the breadth of the focus of the bill. Specifically, the substitute modifies the text of the introduced version of the bill by clarifying that State and Federal whistleblower protection laws are not superseded by the bill.

Mr. Glickman was recognized and noted his concern that the introduced version of the bill needed to be more narrowly focused to address only serious interstate, criminal enterprises that were intended to produce violence, physical or human damage, or bodily harm. He commended Mr. Stenholm for addressing these concerns in the substitute and expressed his support for the substitute.

Mr. Stenholm offered the substitute and moved that it be considered as original text for purposes of amendment. The motion was adopted by unanimous consent.

B. Differences between the substitute and the introduced version of the bill

Definitions

The differences between the introduced version of the bill and the substitute are as follows. The introduced version of the bill provided definitions of the terms “animal”, “animal facility”, “person”, “Secretary”, and “State”. The substitute deletes the definition of “person”, which is already defined in title 1 of the United States Code.

The substitute adds a definition of “animal enterprise” and modifies the introduced version of the bill by specifying that certain prohibited acts are prohibited only if “committed with the intent to physically disrupt or damage the animal enterprise conducted at the animal facility”.

The substitute provides that the term “exhibition” includes, but is not limited to State and county fairs and other fairs or similar events intended to advance agricultural arts and sciences, livestock shows and competitions, aquariums, zoos, circuses, purebred dog and cat shows, and rodeos, but does not include retail pet stores or animal fighting ventures. The substitute clarifies that (1) the types of animals intended to be protected by the bill include animals exhibited at the places specified in the provision defining “exhibition”; (2) the types of “animal facilities” intended to be protected by the bill include exhibition facilities at such places; and (3) the types of “animal enterprises” that may not be physically disrupted or damaged in the commission of a prohibited act under the bill include exhibitions at such places.

Facilities in interstate commerce

The substitute deletes specific references in the introduced bill to the telegraph, telephone, radio, or television as facilities in interstate or foreign commerce. These specific references are unnecessary because such facilities are included in the substitute in the phrase “any facility in interstate or foreign commerce”.

Prohibited acts

The substitute narrows the focus of the new section 1484 of the Food Security Act of 1985 (1985 Act) entitled “Prohibited Acts” by adding an intent requirement for acts prohibited under subsection (a). Such acts are prohibited only if such acts are committed with the intent to physically disrupt or damage the animal enterprise conducted at the animal facility. Acts prohibited under subsection (a) are specifically set out in subsection (b) and include: (1) stealing an animal from an animal facility, (2) stealing, damaging or vandalizing property in an animal facility, (3) breaking and entering into an animal facility with the intent to steal its property or animals, (4) entry into an animal facility with the intent to steal its animals or property; and (5) knowingly aiding or abetting any of the acts specified in items (1) through (4).

An amendment contained in Mr. Stenholm's en bloc amendment to the substitute removes the intent to physically disrupt or damage requirement as an element of an offense under subsection (c) of the new section 1484 of the 1985 Act.⁵ Subsection (c) is a provision added by the substitute that prohibits anyone who knows an offense under subsection (a) has occurred, from receiving, relieving, comforting or assisting the offender of subsection (a) in order to prevent the offender's apprehension, trial, or punishment. Under the amendment to the substitute, the assister of an offender, knowing the offense to have occurred, would be in violation of subsection (c) even if such assister did not intend to disrupt or damage the animal enterprise by offering such assistance to the primary offender.

The substitute deletes the prohibition contained in the introduced version of the bill on receiving, concealing, or retaining material, equipment, or animals knowing that they have been stolen. This change clarifies that such non-violent activities as receipt, concealment, or retention of materials or animals, even knowing they are stolen, are not prohibited under the bill.

The substitute bill makes technical and clarifying changes to the provision prohibiting entry or obtaining unauthorized access, or obtaining access under false pretenses, or remaining on an animal facility with the intent to commit any of the acts prohibited in the introduced version of the bill by: (1) striking the reference to the prohibition on receiving; and (2) striking the reference to the prohibition on breaking and entering.

The substitute also adds a prohibition on knowingly aiding, abetting, commanding, inducing, or procuring the commission of any other prohibited act specified in the new section 1484(b) of the 1985 Act.

Penalties

The introduced version of the bill required penalties of imprisonment for not more than 10 years or a fine, or both, for a willful offense that causes harm to person or property. The substitute bill deletes the term "willful" and establishes a minimum value of \$5,000 for property damage before such penalties may be imposed.

Mandatory restitution

The substitute bill deletes new section 1489⁶ from the introduced version of the bill, which authorized a private right of action in Federal court for persons damaged by reason of a violation of the bill. The substitute adds a new section 1485(d) requiring that the court determine the reasonable costs attributable to a violation of new section 1484, and that any person convicted of a violation be ordered to make restitution to the animal facility.

⁵ Mr. Stenholm's en bloc amendment to the substitute was adopted by the Committee and is discussed in detail in the section of this report entitled "D. En Bloc Amendment to the Substitute", below.

⁶ References to "new" sections refer to new sections of the 1985 Act, as added by the bill.

Reporting requirements

New section 1486 of the introduced version of the bill authorized the Secretary of Agriculture (the "Secretary") to report any offense under the bill to any appropriate law enforcement agency. The substitute modifies the reporting provisions to authorize the Secretary to report any such offense to the Federal Bureau of Investigation.

Study

The introduced bill required submission to Congressional committees of a study to be conducted by the Secretary of Agriculture and the Attorney General on the effects of terrorism on animal research, production, and processing facilities. The substitute bill deletes the reference to the Attorney General. The substitute bill also expands the study to require a report on the effectiveness of prosecutions and injunctive relief under the provisions of the bill in deterring and punishing the acts prohibited by new section 1484.

Equitable relief

The introduced version of the bill provided that the United States District Courts shall have jurisdiction to enforce the provisions of the bill, to prevent and restrain a person from violating such provisions, and over any other kinds of cases arising under the bill. The substitute deletes this provision and simply authorizes the Attorney General to obtain equitable relief to prevent a violation of the provisions of the bill.

Construction

The substitute bill adds provisions in new section 1489 that clarify that (1) nothing in the bill may be construed to affect any other rights of a person damaged by reason of a violation of the provisions of the bill; (2) nothing in the bill may be construed to limit State or Federal whistleblower protection laws; and (3) it is not an offense under the bill to copy or disseminate material to report activity that may be a violation of any State or Federal law or regulation.

C. Additional statements

Following the explanation of the substitute, Mr. Campbell was recognized and inquired whether the substitute is intended to protect animals and animal facilities on public lands. Mr. Stenholm responded that public lands are included under the substitute's definition of "animal facility", which specifically includes any "premises where an animal is kept".

Mr. Brown was recognized and stated his support for the substitute and commended Mr. Stenholm for his work on the bill.

D. En bloc amendment to the substitute

Mr. Stenholm offered an amendment en bloc to make technical and clarifying amendments and other minor substantive amendments to the bill. The first substantive amendment clarified that Federal protection was intended to apply only to illegal activities in interstate commerce, not purely intrastate activities. The second substantive amendment clarified that the substitute does not regu-

late, but rather provides Federal protection against, illegal activities. The third substantive amendment clarifies that the unlawful obtaining, rather than the unlawful transport, of records, research materials, equipment, or animals, is the act intended to be prohibited under Federal law under the substitute. The fourth substantive amendment is discussed above in section B, entitled "Explanation of Differences Between the Substitute and the Introduced Version of the Bill" under the heading "Prohibited Acts". The fifth substantive amendment clarifies that the term "value" means replacement value and includes any lost profits.

E. Committee action on the bill

Mr. Stenholm moved the adoption of the amendments en bloc. The motion was adopted by voice vote. The substitute, as amended, was moved for adoption and the motion was adopted by voice vote.

The Committee then agreed, by voice vote in the presence of a quorum, to report the bill, as amended, to the House with the recommendation that it do pass. By unanimous consent, the staff was instructed to make any necessary clerical and technical corrections to the bill.

ADMINISTRATION POSITION

At the time of the filing of this report, the Committee had not received a report from the U.S. Department of Agriculture concerning H.R. 2407, as amended, entitled the "Farm Animal and Research Protection Act of 1991".

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 were not received by the Committee prior to the filing of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 2407, as amended, will have no inflationary impact on the national economy.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 2407, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of rule X of the Rules of the House of Representatives.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

FOOD SECURITY ACT OF 1985

* * * * *

SHORT TITLE

SECTION 1. This Act may be cited as the "Food Security Act of 1985".

TABLE OF CONTENTS

* * * * *

Title XIV—AGRICULTURAL PRODUCTIVITY RESEARCH

* * * * *

Subtitle C—Agricultural Productivity Research

* * * * *

Subtitle D—Protection of Farm Animal and Research Facilities

- Sec. 1481. Short title.*
- Sec. 1482. Findings.*
- Sec. 1483. Definitions.*
- Sec. 1484. Prohibited acts.*
- Sec. 1485. Penalties.*
- Sec. 1486. Reporting of violations by the Secretary.*
- Sec. 1487. Study of effect of illegal activities on certain animal facilities.*
- Sec. 1488. Equitable relief.*
- Sec. 1489. Construction.*
- Sec. 1490. Effect on other laws.*

* * * * *

TITLE XIV—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

* * * * *

Subtitle C—Agricultural Productivity Research

* * * * *

Subtitle D—Protection of Farm Animal and Research Facilities

SEC. 1481. SHORT TITLE.
This subtitle may be cited as the "Farm Animal and Research Facilities Protection Act of 1992".

SEC. 1482. FINDINGS.

Congress finds that—

(1) *there have been an increasing number of illegal acts committed against farm animal, research, and educational facilities;*

(2) *these illegal acts threaten the production of agricultural products and damage the public interest by jeopardizing scientific, biomedical, and agricultural research;*

(3) *these illegal acts interfere with the property rights of the owners of the facilities;*

(4) *Federal protection of farm animal, research, and educational facilities is necessary to prevent and eliminate burdens on interstate commerce; and*

(5) *Federal protection is necessary to protect the welfare of animals and productive use of Federal research funds and to prevent the unlawful alternation, destruction, or obtaining of research records, research materials, equipment, animals, or any combination thereof.*

SEC. 1483. DEFINITIONS.

As used in this subtitle—

(1) *The term “animals” used for food or fiber production, agriculture, research, education, testing, or exhibition, and includes poultry, fish, and invertebrates.*

(2) *The term “animal facility” means any vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale.*

(3) *The term “animal enterprise” means food or fiber production, agriculture, research, education, testing, or exhibition using animals.*

(4) *The term “Secretary” means the Secretary of Agriculture.*

(5) *The term “State” means a State of the United States, the District of Columbia, or any Commonwealth, territory, or possession of the United State.*

(6) *The term “exhibition” includes, but is not limited to, State and county fairs and other fairs or similar events intended to advance agricultural arts and sciences, livestock shows and competitions, aquariums, zoos, circuses, purebred dog and cat shows, and rodeos, but does not include retail pet stores or animal fighting ventures.*

SEC. 1484. PROHIBITED ACTS.

(a) **IN GENERAL.**—*Whoever travels in interstate or foreign commerce or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of committing any act that is specified in subsection (b) and commits or attempts to commit any such act, with the intent to physically disrupt or damage the animal enterprise conducted at the animal facility, shall be punished in accordance with section 1485.*

(b) **SPECIFIED ACTS.**—*The acts referred to in subsection (a) are the following:*

(1) *to steal or intentionally cause the unauthorized release or loss of any animal from an animal facility;*

(2) *to vandalize, steal, or damage any property in or on an animal facility;*

(3) to break and enter any animal facility with the intent to destroy, alter, duplicate, or obtain the unauthorized possession of records, data, materials, equipment, or animals;

(4) to enter, obtain access to, or remain on an animal facility under false pretenses with intent to commit an act specified in paragraphs (1) or (2); and

(5) to knowingly aid, abet, command, induce, or procure the commission of an act described in paragraphs (1), (2), (3), or (4).

(c) **OTHER PROHIBITED ACTS.**—Whoever knowing an offense specified in subsection (a) has occurred, attempts to or does receive, relieve, comfort, or assist the offender in order to prevent the offender's apprehension, trial, or punishment shall be punished in accordance with section 1485.

SEC. 1485. PENALTIES.

(a) **IN GENERAL.**—Whoever violates section 1484 shall be imprisoned for not more than one year or fined under title 18 of the United States Code, or both.

(b) **OFFENSES INVOLVING SERIOUS BODILY INJURY AND ANIMAL OR PROPERTY DAMAGE.**—Whoever violates section 1484 and in doing so causes or attempts to cause serious bodily injury (as defined in section 1365 of title 18) to an individual or causes or attempts to cause the loss of or damage, in an amount equal to \$5,000 or more, to animals or other property of an animal facility, including the reasonable cost of replacing property, data, records, materials, equipment, or animals that may have been damaged or cannot be returned, and the reasonable cost of repeating any experimentation that may have been interrupted or invalidated and the reasonable cost attributable to the loss of food production, including loss of farm income, resulting from a violation of section 1484, shall be imprisoned for not more than 10 years or fined under title 18 of the United States Code, or both.

(c) **LIFE ENDANGERING OFFENSES.**—Whoever violates section 1484 and in so doing places or causes to be placed in jeopardy the life of any person, shall be imprisoned for not more than 20 years or fined under title 18 of the United States Code, or both.

(d) **REASONABLE COSTS.**—

(1) **DETERMINATION.**—The United States District Court or the United States Magistrate, as is appropriate, shall determine: (A) the reasonable cost of replacing property, data, records, materials, equipment, or animals that may have been damaged or cannot be returned; (B) the reasonable cost of repeating any experimentation that may have been interrupted or invalidated; and (C) the reasonable costs attributable to the loss of food production, including loss of farm income, resulting from a violation of section 1484.

(2) **RESTITUTION.**—Any persons convicted of a violation of section 1484 shall be ordered jointly and severally to make restitution to the animal facility in the full amount of the reasonable cost determined under paragraph (1).

SEC. 1486. REPORTING OF VIOLATIONS BY THE SECRETARY.

For purposes of enforcing the provisions of this subtitle, the Secretary—

(1) may report any offense under this subtitle to the Federal Bureau of Investigation; and

(2) shall provide, to the extent practicable, any assistance requested by law enforcement agency of the United States or any State or local government in connection with an investigation of an offense under this subtitle.

SEC. 1487. STUDY OF EFFECT OF ILLEGAL ACTIVITIES ON CERTAIN ANIMAL FACILITIES.

(A) **STUDY.**—The Secretary, with the assistance of any appropriate Federal agency, shall jointly conduct a study on—

(1) the extent and effects of illegal activities on animal research, production, and processing facilities and all other facilities in which animals are used for research, food production, or exhibition; and

(2) the effectiveness of prosecutions and injunctive relief under this subtitle in deterring and punishing acts prohibited under this subtitle.

(b) **SUBMISSION OF STUDY.**—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall submit a report that describes the results of the study conducted under subsection (a), together with any appropriate recommendations and legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1488. EQUITABLE RELIEF.

The Attorney General may in a civil action obtain appropriate equitable relief to prevent a violation of this subtitle.

SEC. 1489. CONSTRUCTION.

(a) **EFFECT ON OTHER RIGHTS.**—Nothing in this subtitle shall be construed to affect any other rights of a person who has been damaged by reason of a violation of this subtitle.

(b) **EFFECT ON WHISTLEBLOWER PROTECTION LAWS.**—Nothing in this subtitle shall be construed to affect or limit the exercise of any right granted by State or Federal whistleblower protection laws, including section 1201 et seq. of title 5, and section 2409(a) of title 10, United States Code.

(c) **ADDITIONAL CONSIDERATIONS.**—Notwithstanding any other provision of this subtitle, it shall not be an offense under this subtitle to (1) copy any material or (2) disseminate any information, for the purpose of using such material or information to report any act, omission, or condition that may be a violation of any State or Federal statute or regulation.

SEC. 1490. EFFECT ON OTHER LAWS.

Nothing in this subtitle shall be construed or interpreted to preempt any Federal or State law or regulation.

NATIONAL AGRICULTURAL LIBRARY



1022278471



NATIONAL AGRICULTURAL LIBRARY



1022278471